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5 **DISTRICT COURT FOR THE UNITED STATES**
6 **DISTRICT OF ARIZONA**

7 Keith Raniere,

8 Plaintiff,

9 v.

10 Merrick Garland, *et. al.*

11 Defendants

Case No.: 4:22-cv-00561-RCC-PSOT

**PLAINTIFF’S MOTION FOR
EXTENSION OF TIME TO
RESPOND TO MOTION FOR
SUMMARY JUDGMENT
AND
MOTION FOR LIMITED
DISCOVERY REGARDING
EXHAUSTION OF
ADMINISTRATIVE REMEDIES**

12 Plaintiff, via counsel, requests an extension of 30 days to respond to Defendants’
13 Motion for Summary Judgment at Doc. 36. The reason for the extension is that Plaintiff
14 received information indicating that Defendant Warden Gutierrez was open to settlement
15 negotiations. The negotiations were unsuccessful. Additionally, Plaintiff is asking for
16 leave to conduct limited scope discovery regarding the facts asserted in Defendants’
17 Motion. If granted, the discovery will require additional time for gathering and
18 responding to the requests before a response can be filed.

19 Because Defendants have chosen to file a Motion for Summary Judgment instead
20 of a Motion to Dismiss, limited scope discovery is appropriate.

21 the district court may in its discretion limit discovery to
22 evidence concerning exhaustion, leaving until later—if it

1 becomes necessary—discovery directed to the merits of the
2 suit. *See Pavey [v. Conley]*, 544 F.3d [739] at 742 [7th Cir.
2008].

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4 *Albino v. Baca*, 747 F.3d 1162, 1170 (9th Cir. 2014).

5 An inmate, that is, must exhaust available remedies, but need
6 not exhaust unavailable ones... an administrative procedure is
7 unavailable when (despite what regulations or guidance
8 materials may promise) it operates as a simple dead end—
with officers unable or consistently unwilling to provide any
relief to aggrieved inmates. See [*Booth v. Churner*,] 532 U.S.
[731], at 736, 738 [2001]

9 *Ross v. Blake*, 578 U. S. 632, 642 (2016).

10 Here, Plaintiff requests the opportunity to do limited-scope discovery regarding
11 the availability of remedies pursuant to *Ross*. Plaintiff intends to request policies
12 regarding exhaustion generally, as well as records regarding the actions of Defendants as
13 to Plaintiff's use of the grievance system specifically.

14 Undersigned reached out to opposing counsel for her position on these requests.
15 Ms. Faulk objects to any discovery, and has not responded regarding the extension of
16 time.

17 DATED this 25th day of May, 2023 by

18
19 /s/Stacy Scheff
20 STACY SCHEFF
Attorney for Plaintiff

21 Delivered via ECF
22 to all registered parties